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| 09/832,168 | 04/10/2001 | Won Bang | 004515 | 8789 |
| 32588 | 7590 | 12/08/2003 | EXAMINER | |
| APPLIED MATERIALS, INC. 2881 SCOTT BLVD. M/S 2061 SANTA CLARA, CA 95050 | | | ZERVIGON, RUDY | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1763 | |

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 20031126

Application Number: 09/832,168
Filing Date: April 10, 2001
Appellant(s): BANG ET AL.

Keith M. Tackett
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 17, 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-11 and 17-21 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

4,263,091

KING

4-1981

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-11, and 17-21 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office Action, Paper No. (4/14/2003 – Final Rejection).

(11) *Response to Argument*

Applicant states (Section I Arguments) that:

“

Gauthier does not teach, show, or suggest that input (176) is capable of functioning as an output connected to vaporizer (122).

“

and on the next page:

“

There is no suggestion or motivation in Gauthier to modify apparatus (100) such that gases that are vaporized in the vaporizer (122) and passed through the valve (174) could be returned through the port (134) to the vaporizer (122) via input (176). As input (176) of Gauthier is incapable of functioning as an output, valve (174) is not a valve connected between a vaporizer and a processing system, the valve having a valve input connected to a vaporizer output and a first valve output connected to a processing system input and a second valve output connected to a bypass line.

“

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In response, the Examiner asserts that although Gauthier may not specifically state that “input (176) is capable of functioning as an output connected to vaporizer (122)” and “input (176) of Gauthier is incapable of functioning as an output”, it is inherent that Gauthier’s apparatus can perform applicant’s intended use. In particular, that input (176) is capable of functioning as an output connected to vaporizer (122) is solely a function of the operating pressures across Gauthier’s valve-pipe connections.

Further, it has been held that claim language that simply specifies an intended use or field of use for the invention generally will not limit the scope of a claim (Walter , 618 F.2d at 769, 205 USPQ at 409; MPEP 2106). Additionally, in apparatus claims, intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim (In re Casey, 152 USPQ 235 (CCPA 1967); In re Otto , 136 USPQ 458, 459 (CCPA 1963); MPEP 2111.02).

Additionally, in response to applicant's argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., “Gauthier does not teach, show, or suggest that input (176) is capable of functioning as an output connected to vaporizer (122).”) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Specifically, Applicant claims in claim 1 that the valve has a “second valve output connected to a bypass line”. And, as conveyed in the final rejection, Gauthier’s apparatus teaches Applicant’s second valve (174) output (176) is connected to a bypass line – Following piping conduit from 176 along conduit

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connecting valve 160 that bypasses the processing system (130) enroute from the vaporizer (122).

In response to Applicant's position that "valve (174) is not a valve connected between a vaporizer and a processing system". Gauthier clearly teaches that valve (174) is connected between Gauthier's vaporizer (122) and a processing system (130) along the piping conduit holding elements 170 and 126 that are intermediate between valve 174 and vaporizer 122.

Applicant further states:

“

Applicants further submit that King does not teach, show, or suggest a controller for switching a valve between a first valve output and a second valve output.

“

To the contrary, King indeed teaches electrically controlled three-way valve means (31-34; Figure 1) via a controller (59) that controls each conduit flow for each valve (column 3, lines 48-64). The controller is taught by King to switch each three-way valve (see 34 for example) between fully open or close first (39), second (26), and third (feed to 11) outputs. Applicant appears to believe King's three-way valves can only open to all three outlets or only close to all three outlets. In response, the Examiner contends that King would not need to install a three-way valve to accomplish Applicant's implied function if King's three-way valves can only open to all three outlets or only close to all three outlets. For this function, persons of ordinary skill in the art would install one valve and a "T" connection down-stream of the single valve. The Examiner believes King's more complex disclosure (column 3, lines 48-64) provides for King's three-way

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valves can open or close to each of all three outlets where, at any one time, one of three outlets is open. This is the inherent and universal function of three-way valves.

Applicant states that (second to last page):

“

Applicants submit that Gauthfer does not provide or suggest a valve means for selectively delivering gas to a processing system input and to a bypass line, wherein the valve means is connected between the vaporizer and the processing system. Valve (174) of Gauthier provides a means for delivering gas from vaporizer (122) or from gas sources (156), (146), or (160) to chamber (130). Even if the line connected to input (176) of valve (174) is considered a bypass line, Gauthier does not provide a valve means for selectively delivering gas to an input of chamber (130) and to the bypass line. Gases would not flow out of input (176) into the bypass line back to the vaporizer, as the valve (174) is necessarily at a lower pressure than the vaporizer (122). As discussed in the first argument, as valve (174) only allows gases to flow out of the valve into chamber (130), valve (174) cannot function as a valve means for selectively delivering gas to a processing system input and to a bypass line.

“

Support for this portion of claims is found in section [0026], Page 6. Specifically, the specification teaches:

“

The output valve 272, 274, 276 includes an input 293, 296, 299 connected to the vaporized gas output 252, 254, 256 of the vaporizer 202, 204, 206 and facilitates selective delivery of process gas to the chamber. The output valve 272, 274, 276 includes a first output 291 , 294, 297

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connected to the gas distributor 106 of the chamber and a second output 292, 295, 298 connected to a foreline of the exhaust system 1 12 of the processing system. The output valve 272, 274, 276 is connected to and controlled by the system controller 1 16 to switch between the output connections 291/292, 294/295, 297/298 as described below.

”

Gauthier teaches:

An output valve (174) includes an input (along the piping conduit holding elements 170 and 126 that are intermediate between valve 174 and vaporizer 122) connected to the vaporized gas output (along the piping conduit holding elements 170 and 126 that are intermediate between valve 174 and vaporizer 122) of the vaporizer (122) and facilitates selective delivery of process gas to the chamber. The output valve (174) includes a first output (between 174 and 130) connected to the gas distributor (180a,b) of the chamber (130) and a second output (176) connected to a foreline of the exhaust system (164 to blower stack) of the processing system.

As such, Gauthier teaches an equivalent apparatus that performs the function of vapor delivery.

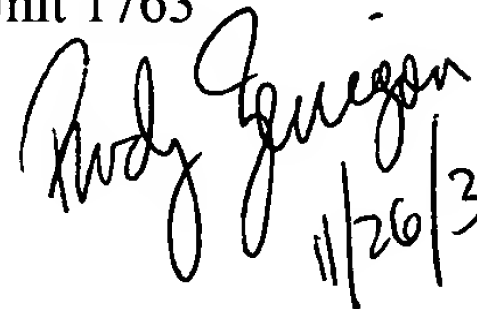
As a result, Gauthier's prior art elements of 122, 174 and associated piping for vapor delivery perform the identical function of vapor delivery in substantially the same way, and produces substantially the same results as the corresponding elements disclosed in the specification (MPEP 2183).

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

Rudy Zervigon
Examiner
Art Unit 1763




11/26/3

Rudy Zervigon
November 26, 2003

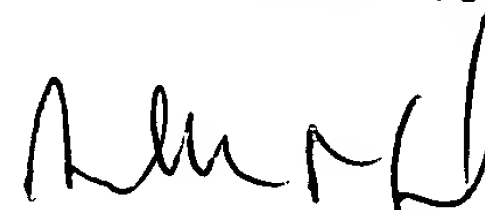
Conferees
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